

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

RAUL GONSALVES
Petitioner,

V.

MICHAEL THOMPSON
Respondent.

Civil Action No. 05-10618-RCL

RESPONDENT'S MOTION TO DISMISS

The respondent, Michael Thompson, the Superintendent of the Massachusetts Correctional Institution-Shirley, respectfully moves this Court to dismiss the above-captioned petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on the ground that the petition contains exhausted and unexhausted claims. *See Rose v. Lundy*, 455 U. S. 509, 518-519 (1982). The respondent relies on the accompanying memorandum of law in support of his motion to dismiss.

WHEREFORE, for the foregoing reasons, the respondent requests that this Court dismiss this action in its entirety pursuant to Fed. R. Civ. P. 12(b)(6).

Respectfully submitted,

THOMAS F. REILLY
Attorney General

/s/ Eva M. Badway
Eva M. Badway
Assistant Attorney General
Criminal Bureau
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2200, ext. 2824
BBO # 635431

Dated: June 22, 2005

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2005, I caused a copy of the above Motion to Dismiss to be served by first-class mail, postage prepaid, upon Raul Gonsalves, *pro se*, MCI-Shirley, P.O. Box 1218, Shirley, Massachusetts 01464.

/s/ Eva M. Badway
Eva M. Badway